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FYI ART



# EPA seeks private funds for cleanup

The funding for Superfund is in a shambles. The bill authorizing the program expired last September. On Apr. 1, Congress authorized \$150 million in interim funding, but it stipulated that the Environmental Protection Agency (EPA) cannot spend any portion of that money after May 31. Meanwhile, Congress has not ironed out differences among various versions of a new bill, and it does not seem likely that the lawmakers will reauthorize the Superfund program by the May 31 deadline.

Despite that, EPA's regional officials say that they are proceeding apace with site cleanups. Since Superfund formally expired, explains Morris Kay, EPA Region 7 administrator (St. Louis), "we are continuing to obtain cleanups" from po-

## Some regional EPA agencies are asking individual firms to help clean up Superfund sites

tentially responsible parties (PRPs) in the private sector.

Typical of the offices trying to forge ahead with PRP-financed cleanups is EPA Region 5 (Chicago). Officials there have called on some 800 PRPs to help the agency pay up to \$1 million for the first step toward cleaning up a National Priority List (NPL) land-disposal site, which is owned by American Chemical Service, at Griffith, Ind. The NPL site is a landfill that the company says it closed after operating it between 1955 and 1975. However, other waste disposal units at American Chemical Service's Griffith facility are still operating.

**Cleanup options.** EPA wants the PRPs to foot the bill for a remedial investigation and feasibility study (RIFS) on the landfill. The study would identify hydrogeological characteristics; define the nature and extent of soil, water- and air-contamination at the site; and explore remedial cleanup options.

Industry representatives have serious questions about the agency's approach. "Why drag in several hundred generators that paid to have their waste disposed of there?" asks Thomas Reid, vice-president of the Illinois Manufacturers Assn. (IMA). After all, he points out, the American Chemical Service facility is still a hazardous waste storage and treatment business, regulated under the Resource Conservation and Recovery Act (RCRA). Superfund, he notes, is designed for cleanup of aban-

doned sites. Reid argues that EPA should compel American Chemical Service to clean up its old land-disposal unit—the NPL site—under RCRA, because that would involve direct talks with only one business. "It just seems," concludes Reid, that "the government is overlooking a quicker, more efficient way to resolve this problem."

EPA does not buy that argument. David M. Taliaferro, an EPA Region 5 attorney, says, "We believe it would actually be slower" to switch cleanup efforts at the facility to RCRA oversight. Doing so, he says, would "ignore the several years of Superfund work that's already been done" on the site. He notes that the agency has carefully evaluated the site and is now ready to decide whether there should be a publicly or privately funded RIFS.

**Voluntary.** For now, Taliaferro says, EPA is interested only in those PRPs that used the American Chemical Service disposal service between 1955 and 1975. Financial support, he adds, is voluntary. Taliaferro stresses, however, that those PRPs that used the company's services at the site for the first time after 1975 may be hit for costs, depending on the outcome of further EPA investigations. For those covered by the 20-year period, "the decision to participate is up to them," Taliaferro points out, adding, "We certainly hope the appropriate people" will participate.

If EPA decides on public funding for the cleanup, the Superfund law would allow the agency to seek out, later, all the facility's documented PRPs and make them liable for all removal or remedial action costs. The PRPs have until August to decide whether they will volunteer assistance in the RIFS.

The way that EPA is handling the case seems to be discouraging at least a few PRPs from volunteering their help. The agency's alleged lack of cooperation in determining a period of liability is one example. It was not until a May 5 meeting in Chicago between EPA and all the PRPs that the agency finally announced that companies that dealt with American Chemical Service after the 1975 cutoff time would not be involved in the cleanup study. Many PRPs who

began using the service well after that time say they learned of their exclusion only after they flew to Chicago for the meeting.

**'All the way.'** One man who is irate about that point is Archie L. Simmons, safety and environmental affairs director of Whittaker (Los Angeles), a specialty chemical and equipment producer. Simmons says he will take his complaint "all the way to the White House." He explains that Whittaker's lawyers had written to the agency well in advance of the meeting to inquire whether Whittaker should be on the PRP list and if Simmons needed to attend. Whittaker did not start using American Chemical Service until 1979. However, Simmons says EPA failed to inform him that it is



Reid: Serious questions about EPA's approach.

presence was not required until he arrived at the Chicago session from the company's corporate office in Dallas.

3M had a similar experience, says Lowell Ludford, a 3M environmental specialist. An attorney from his company went to Chicago on Mar. 17 for another meeting about the American Chemical Service site, only to find that the conference had been canceled without notice. The 3M corporate lawyer then visited Region 5 headquarters where, Ludford insists, he met with an official "who had no good information and did not know much about the site." 3M says it should not have been asked to volunteer because it became an American Chemical Service customer in

1981, six years after the cutoff year. American Chemical Service, which declines to comment on the case, wrote a letter to its clients on Feb. 24, expressing similar concerns. In the letter, it says that "EPA incorrectly identified many recipients of the letter" that it sent to PRPs soliciting voluntary contributions for the RIFS. The letter notes that "for reasons unknown to the company" EPA did not use data on some 200 companies offered by American Chemical Service to the agency, to show which clients used the landfill before the unit was taken out of service in 1975. Instead, the company says, EPA prepared a list based on the company's 1982 and 1983 waste generator reports.

**Old records.** Another PRP complaint centers on EPA's requests for records that are more than three decades old in some cases. Says IMA's Reid: "Nineteen fifty-five was 31 years ago." He questions how many companies have records going back that far. "A company may have shipped one drum to American Chemical Service 31 years ago," he says. Their being drawn into the case now he calls a "fiasco."

EPA admits that its handling of the affair has caused some problems. Talia-

## Disagreement surrounds EPA's request that companies volunteer to help with an RIFS

ferro says that EPA "regrets very much" the frustration of many of the PRPs, particularly those that sent representatives to the May 5 conference in Chicago, only to discover they were no longer part of the case. He notes that the agency is removing companies that used American Chemical Service after 1975 from its PRP list, but he says, too, that some additions are being made to the list. Taliaferro asks that the companies help EPA to avoid more difficulties by forming "a responsible generators' group for better communication."

Industry says that it is making progress on that score. "There's already a nucleus for a generators' committee," says Reid, who reports that IMA has offered logistical support by, among other things, sponsoring meetings to help affected firms improve coordination and communication among themselves. "There are certain waste generators that know they've disposed of waste during the affected target period," he says, adding, "There's actually an informal group." □

JEFFREY TREWHITT and Christina MacKenzie in Chicago, with Laurie A. Rich

# Spain merges four firms to compete in Europe

Industrialists in Spain are aware that their country's new status as a member of the European Community (EC) will have some drawbacks. Among other changes triggered by its admission to the EC, Spain must dismantle its highly protectionist taxation and trading system, including customs duties and import quotas, and introduce a value-added tax (VAT), part of which is used to finance the EC budget. However, because much of Spain's industry is weaker than that of its new partners, a transition period of seven years has been established by the EC to give the business community time to adapt to the new wave of competition that membership will ultimately bring.

Given that respite, Spanish industrialists are restructuring their holdings. Last year, reforms designed to pare Spain's fertilizer industry were set in motion (*CW*, Feb. 13, 1985, p. 44). Now state oil company Empresa Nacional del Petróleo (EMP) is attempting to whip the petrochemical sector into shape, for its upcoming matches with EC opponents, by consolidating four of its joint-venture petrochemical companies—Alcudia, Paular, Calatrava and Montoro—into one major petrochemical entity (*table*, p. 57). The merger, says EMP President Juan Sancho Rof, will put the Spanish petrochemicals industry "in a better position to face the competition."

**Need to export.** EMP has been working on the merger since 1979. Prior to that year, Spain's domestic market was able to absorb all of the country's petrochemical production, explains Javier de la Peña, who became vice-president responsible for petrochemicals at EMP almost a year ago. In 1979, domestic consumption dropped, de la Peña says, and "the need to export became apparent."

At that point, he notes, "differences of opinion over export policies" developed between EMP and its joint-venture partners in the four companies. The decision was made to buy out the partners, which included companies such as Phillips Petroleum, Britain's Imperial Chemical Industries (ICI) and Italy's Montedison. And when, in the early 1980s, the need to cut European petrochemical capacity became obvious, EMP felt that "the logical thing to do was consolidate," according to Sancho Rof.

That was also the conclusion drawn



De la Peña: A fighting chance in the EC.

by de la Peña, who is likely to serve as president of the new petrochemical group. De la Peña was brought in last June to participate in EMP's strategic study of its petrochemical assets, evaluating the strengths and weaknesses of each subsidiary. "All the units were in pretty good shape," he observes, but since EMP had the ethylene plants that supplied the four subsidiaries, "we were obviously better off merging the four derivative units into one."

**Strategic location.** By last year, EMP had attained 100% ownership of Alcudia, Paular and Calatrava, but negotiations to purchase Arco Chemical Iberica's 50% stake in Montoro were fruitless. "It was clearly in our interest to include Montoro within the group," de la Peña says, "because of its strategic location at Puertollano," a town near Madrid, where Alcudia and Calatrava have plants. With a \$5 million cash flow in 1985, EMP also considers Montoro the most financially sound of the four companies.

Nevertheless, de la Peña says, "we decided to go ahead with the merger of the three and [figure out] how to integrate Montoro later." Last September, EMP received government authorization to merge the three companies. However, prior to completion of that effort, Arco indicated that it was willing to sell